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UNITED NATIONS CONFERENCE ON THE LIABILITY OF OPERATORS OF
TRANSPORT TERMINALS IN INTERNATIONAL TRADE

FIRST COMMITTEE

SUMMARY RECORD OF THE 15th MEETING

Held at the Austria Center Vienna,
on Friday, 12 April 1991, at 9.30 a.m.

Chairman: Mr. BERAUDO (France)

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Distr.: 20 April 1991

The meeting was called to order at 9.40 a.m.

CONSIDERATION OF ARTICLES 1 TO 16 AND 20 OF THE DRAFT CONVENTION ON THE LIABILITY OF OPERATORS OF TRANSPORT TERMINALS IN INTERNATIONAL TRADE (agenda item 3)
(continued) (A/CONF.152/5, 6, 7 and Add.1 and Add.1/Corr.1 and Add.2)

Articles 1 (proposals for new subparagraphs), 2 and 15 (continued)
(A/CONF.152/C.1/L.7, L.8, L.19, L.32, L.44/Rev.1, L.56/Rev.1, L.57, L.61)

1. Mr. SCHROCK (Germany), introducing the proposal to amend the introductory wording of article 2 (1) (A/CONF.152/C.1/L.8), said that the intention of the proposal in seeking to add the words "or procured" was to bring the text of article 2 into line with that of article 1 (a), which defined the operator as a person who undertook to take certain goods in charge in order both to perform and to procure the performance of certain services. If the Committee considered that the proposal had no substantive implications he would have no objection to its being referred directly to the Drafting Committee.
2. Mr. LARSEN (United States of America) endorsed the suggestion that the German proposal should be referred to the Drafting Committee.
3. Mr. MESCHERYAK (Ukrainian Soviet Socialist Republic) said that he agreed with the idea underlying the German proposal but would prefer the words "or procured" to be inserted after the word "performed" in subparagraphs (a) and (b) of article 2 (1) rather than in the introductory wording. In subparagraph (c), the words "performed or procured by an operator" should be inserted after the words "transport-related services".
4. The proposal in document A/CONF.152/C.1/L.8, together with the suggestions made by the representative of the Ukrainian SSR, was referred to the Drafting Committee.
5. Mr. SOLIMAN (Egypt) introduced his delegation's proposal (A/CONF.152/C.1/L.32) for the addition of the words "to the Convention" after the words "State Party" in each of the three subparagraphs of article 2 (1). He suggested that it might be referred directly to the Drafting Committee.
6. It was so agreed.
7. Mr. LARSEN (United States of America), introducing the proposal relating to articles 2 and 15 in document A/CONF.152/C.1/L.7, stressed his Government's interest in the draft Convention and said that the provisions which the Committee had approved so far were acceptable to the United States. A fundamental problem arose, however, in connection with the legal status of treaties. Should the Convention expressly permit unilaterally enacted domestic laws to prevail over it? His delegation had sought to solve the problem by joining in the Committee's efforts to redefine the term "operator" in article 1 (a) and by participating in the work of the ad hoc working group set up to consider a definition of the term "carrier". The definition of those two terms, when accomplished, might obviate the need for article 15 or for a change in the introductory wording of article 2 (1). If, however, that process did not prove sufficient, his delegation proposed that the essence of article 15 should be transferred to article 2 (1) in the manner indicated in the fourth paragraph of its proposal.
8. The CHAIRMAN said that an overall approach to articles 1, 2 and 15 had much to recommend it. He invited the Committee to consider the outstanding proposals relating to those three articles as a whole.

9. Mr. SCHROCK (Germany), speaking as the Chairman of the ad hoc working group set up to consider the inclusion in the Convention, and possible wording, of a definition of the term "carrier" (A/CONF.152/C.1/SR.3, para. 15), said that the working group had been composed of his own delegation and those of Sweden, the United Kingdom, the Union of Soviet Socialist Republics and the United States of America. It had held three meetings. Its work had resulted in the proposal for the addition of a new subparagraph to article 1 contained in document A/CONF.152/C.1/L.44/Rev.1. The substance of the proposal lay in the fact that not all States were parties to all the existing transport conventions; the inclusion in the present one of a reference to relevant national law was therefore considered necessary. The working group's aim had been to draft a provision which was sufficiently flexible on the one hand and sufficiently strict on the other. The Committee might feel that the draft lacked precision, but no other formulation would have commanded a consensus in the working group.

10. Mr. ILLESCAS (Spain), replying to a question put by the CHAIRMAN, confirmed that in the Spanish version of document A/CONF.152/C.1/L.44/Rev.1 the word "relevant" was rendered as "aplicable", a term considered appropriate by his delegation.

11. Mr. SMITH (Australia), introducing his delegation's proposal for the addition of a new subparagraph to article 1 defining the term "carrier" (A/CONF.152/C.1/L.56/Rev.1), said that it touched upon two separate points. The first had been mentioned by the United States representative, namely the relationship between the future Convention and national law. While appreciating the efforts which the ad hoc working group had made to deal with that issue, he considered that the expression "relevant national law" employed in its proposal was too broad. A country might, for example, ratify the Convention and then adopt a law that excluded all or some operators from the Convention. Such a law, although undoubtedly relevant, should not be permitted to determine the scope of application of the Convention. The situation could give rise to difficult problems of principle as well as of a practical nature. The phrase "and corresponding with such a convention" was intended to overcome the difficulty. His delegation's proposal for article 15 in document A/CONF.152/C.1/L.57 touched on the same point.

12. The second and, in his opinion, more important point raised by the Australian proposal for article 1 was whether the Convention should allow independent stevedores to exclude themselves from the Convention by obtaining benefits under the "Himalaya" and similar bill-of-lading clauses. In view of what had been said on the subject at the twenty-second session of the Commission and earlier in the present Conference, it was his impression that, as a matter of policy, most delegations were in favour of stevedores being covered by the Convention. The matter was of considerable importance, particularly to common law countries such as his own. His delegation felt that it deserved a clear-cut decision, regardless of whether the United States proposal for article 2 was approved and whether article 15 was retained.

13. Mr. BONELL (Italy) said that his delegation considered it important for the Convention to include a definition of the term "carrier" but could not agree with the wording chosen by the ad hoc working group, for the reasons advanced by the representative of Australia. He strongly recommended using the definition proposed by Australia, but without the second part of the sentence, beginning with the words "but not a non-carrying intermediary". In his view, the first part dealt with virtually all the problems relating to independent stevedores.

14. The CHAIRMAN said that draft article 15 and the United States and Australian proposals for articles 1, 2 and 15 (A/CONF.152/C.1/L.7, L.56/Rev.1, L.57) embodied the notion of derived law. He asked the Secretary of the Committee to explain, in the light of the history of draft article 15, whether derived law meant national legislation inspired by or copied from an international convention, or national legislation designed to implement an international convention.

15. Mr. KATZ (Secretary of the First Committee) said that the idea of subordinating the present Convention to international conventions relating to the carriage of goods had been embodied in the draft Convention from an early stage. The first draft of article 15, prepared by the Secretariat (A/CN.9/WG.II/WP.56, p. 24), had provided, within square brackets, that the Convention should be subordinated to any national law relating to the international carriage of goods. In its subsequent discussion of the draft article the Working Group on International Contract Practices had felt that the draft Convention should be subordinated to national law that implemented international transport conventions; it had agreed (A/CN.9/298, para. 77) that the language of the article should be changed so as to subordinate the Convention only to national laws giving effect to a convention relating to the international carriage of goods, and not to other national laws on the same subject. The wording it had eventually approved for that purpose (A/CN.9/298, para. 112) subordinated the draft Convention to any international convention relating to the international carriage of goods and also to any law of a State "giving effect to or derived from a convention relating to the international carriage of goods"; a proposal made at that stage to delete the words "or derived from" had failed. The accompanying explanation (*ibid.*, para. 111) was that "the words 'derived from' referred to laws in other countries derived from and corresponding with the provisions of international transport conventions to which the country had not become a party". In its consideration of draft article 15 UNCITRAL, after further discussion, had agreed to adopt the language approved by the Working Group, stating in its report its understanding "that the language in question did not subordinate the draft Convention to national laws that were not derived from or did not give effect to a convention relating to the international carriage of goods" (A/44/17, para. 162).

16. The CHAIRMAN said it might be preferable for the Convention to omit any reference to derived legislation since the inclusion of that notion had given rise to ambiguity. He asked the Committee whether it thought the Convention should be subordinated strictly to international legislation based on and implementing international conventions.

17. Mr. SWEENEY (United States of America) said that if article 15 was retained, his delegation would prefer it to refer only to international conventions. That was necessary to promote the uniformity of international law and, by subordinating the present convention only to other international agreements, to avoid the possibility of the application of the Convention being affected by means of subsequent domestic legislation.

18. With respect to the proposal submitted by the ad hoc working group (A/CONF.152/C.1/L.44/Rev.1), he had thought at first that the word "relevant" might cater adequately for the point raised by the representative of Germany that not all States were parties to all the existing transport Conventions. He noted, for example, that the USSR had not signed the Hamburg Rules but had incorporated much of their content into its domestic legislation. However, the equivalent terms used in the French and Spanish versions of the proposal appeared to raise serious and possibly substantive problems.

(Mr. Sweeney, United States of America)

19. The Working Group on International Contract Practices had used article 25 of the Hamburg Rules as a general model for draft article 15, but the former article had been very narrowly expressed in order to deal with specific topics; it was not until its fifth and last paragraph that it contained a general formulation of the kind used by the Working Group for article 15 of the present text. In other words, the language of draft article 15 had been taken from a rather narrow provision and given a broader purport. In his view, article 15 might not be necessary if a satisfactory subordination of the Convention were achieved by the definitions contained in article 1.

20. With regard to the provision about non-carrying intermediaries in the Australian proposal (A/CONF.152/C.1/L.56/Rev.1), the working group had consistently maintained that independent stevedores should be covered by the Convention. The fact of the matter was that they were not carriers even though they might be entitled to some of the protection available to carriers. His delegation opposed the Australian provision on the subject since it would outlaw the "Himalaya clause" principle, followed in many common law jurisdictions in the British Commonwealth and the United States, whereby the carrier's protections under international conventions and national laws could be extended to stevedores to give them the same protection in actions against them founded on tort.

21. Ms. SKOVBY (Denmark) said that there should be no definition of a carrier in the present Convention because it was not a transport convention. However, if it was decided to include one, she preferred the formulation proposed by the *ad hoc* working group, though the term "relevant" raised problems; in her view, it referred to national law of similar effect to that of an international convention. She believed that article 15 was needed and that it should not refer to existing special conventions.

22. Mr. RUSTAND (Sweden) said that his delegation had raised the question of including in the Convention a definition of the term "carrier" (A/CONF.152/C.1/SR.3, para. 50). The solution suggested by the *ad hoc* working group was necessarily a compromise; the word "relevant" was indeed imprecise but that was part of the compromise. He felt unable to take a position on the key question of the position of non-carrying intermediaries under the Australian proposal owing to his limited knowledge of Anglo-Saxon law. If it proved impossible to achieve a clear definition of the term "carrier", it would be better to leave it out. On the other hand, he considered it important to retain article 15 and did not agree with the United States representative that it could be taken to suggest that any national law could take precedence over the Convention. He found the words "giving effect to and derived from" very specific and believed that they should appear in the article; otherwise, problems might arise in countries where international conventions as such were not applicable as domestic law. He thought that the clear understanding of the matter expressed by the Commission at its twenty-second session (A/44/17, para. 162) should meet the concerns of the United States delegation.

23. Mr. OCHIAI (Japan) said that draft article 1 (a) as amended by the Committee excluded carriers from the application of the Convention. In his delegation's view, that did not entitle stevedores to avoid its application by claiming carriers' protections made available to them under a bill-of-lading clause. He therefore approved in substance the provision made for them in the Australian proposal (A/CONF.152/C.1/L.56/Rev.1). Regarding the proposal submitted by the *ad hoc* working group (A/CONF.152/C.1/L.44/Rev.1), he considered that the word "covering" was ambiguous and should be replaced by the word "governing". On the subject of article 15, his delegation was in favour of deletion of the reference to national law.

24. Mr. ABASCAL (Mexico) said that his delegation would prefer not to include a definition of the term "carrier" in the Convention, among other reasons because it was not a transport convention. Regarding the mention of national law in article 15, it considered that the article should refer exclusively to laws implementing international conventions and not to other national legislation, because including a reference to the latter would be detrimental to the uniformity that the Convention sought to achieve.

25. Mr. PAMBOU-TCHIVOUNDA (Gabon) said that if the Committee felt that a definition of the term "carrier" should be included, the definition should be functional rather than formal, in other words, based on the activity performed by the carrier rather than on his status. Once that activity had been defined it would be possible to determine the resulting rights and obligations of the carrier. His delegation further believed that any reference to national law, even that derived from other legislation, should be avoided.

26. Mr. INGRAM (United Kingdom) said that the comments on the use of the word "relevant" in the definition of the term "carrier" proposed by the ad hoc working group had convinced it that the definition was too imprecise. Nevertheless, it was best to include a definition of the term and the one proposed by Australia was clearer, although he did not favour the portion which dealt with non-carrying intermediaries.

27. He felt it would be desirable to retain article 15, but he believed that the Committee should delete the words "or derived from". He regarded the phrase "giving effect" as broader in meaning and as enabling national law to diverge considerably from the Convention. The Australian proposal used the words "and corresponding with" to show clearly that national law must be the same as what was in the Convention. It was important to make it clear that the text gave primacy to international conventions.

28. Mr. ZHAO Chengbi (China) said his delegation too believed that article 15 should be retained. The Convention was based on a dual system of sources of law and it was important to stress its universal nature; if the text emphasized national law unduly, it would lose its significance and scope of application. In his delegation's view, national laws should be discussed within the scope of international conventions as a whole. Where there was a certain area in the Convention in which emphasis should be placed on national law, that should be done accordingly.

29. With regard to the word "carrier", his delegation had already said that it would not oppose a good definition. It did not consider that the definition proposed by the ad hoc working group was ideal, particularly in its reference to relevant national law, which could cause serious problems of application. On balance, therefore, his delegation had decided to oppose the inclusion of a definition of the term "carrier" in the Convention.

30. Mr. ERIKSSON (Finland) said that his delegation would prefer not to have a definition of the term "carrier" in the Convention because it believed that the term was already dealt with adequately in various transport conventions. If a majority of delegations wished to have the definition included, an effort must be made to ensure that it was as clear as possible. He recalled that after the Committee had decided to employ the word "carrier" in article 11 (4) (A/CONF.152/C.1/SR.13, para. 74), it had been pointed out that that did not affect article 15.

31. Mr. SOLIMAN (Egypt) said that article 15 governed the relationship between the draft Convention and other international transport conventions to which a State might be party. The rule appearing in article 15 did not affect the rights and obligations arising from the Convention. Every convention had its scope of application and the text before the Committee was balanced and in harmony with the general principles of international law. Moreover, it was based on article 25 of the Hamburg Rules. His delegation was in favour of retaining the existing text of article 15.

32. Mr. HORNBY (Canada) said his delegation believed that if the term "carrier" was adequately defined in article 1, there would probably be no need for article 15 to be included in the Convention. However, if a majority of delegations thought that article 15 should be retained, it would be preferable to delete from it the words "or derived from" in order to make it quite clear that the text established the primacy of carriage conventions and other international conventions and their relationship with the new Convention.

33. With regard to the definition of the term "carrier", his delegation strongly supported the text proposed by Australia. The last part of that text would ensure that stevedores were covered by the Convention. It was essential because without it the question might arise in certain countries as to whether stevedores could use clauses in a bill of lading to escape liability.

34. Mr. NAOR (Israel) said that, in his delegation's opinion, there was no need for the Convention to define the word "carrier". Nevertheless, if delegations thought that it should, his delegation would support the text proposed by the ad hoc working group (A/CONF.152/C.1/L.44/Rev.1).

35. Mr. TARKO (Austria) said that, since the Committee had introduced the notion of a carrier into the Convention, it should define the term in the text. His delegation was in favour of the Australian definition and considered that the words "and corresponding with" were of great value. He thought that the Committee should retain article 15 and that it might be improved by including those words.

36. Mr. ILLESCAS (Spain) said that, if the Committee decided to include a definition of the term "carrier" in the draft Convention, his delegation would prefer the text proposed by the ad hoc working group. He believed that the working group's proposal meant that the scope of application of the Convention would reflect the realities of international transport of goods. If the first part of the Australian definition was accepted, carriers engaged in international operations would be excluded from the coverage of the Convention. His delegation therefore preferred the ad hoc working group's text. The second part of the Australian definition was completely unacceptable to his delegation.

37. Mr. LEBEDEV (Union of Soviet Socialist Republics) said that the text prepared by the ad hoc working group probably contained the best definition of the term "carrier" because it could be recognized as a universal one, despite its shortcomings. His delegation had serious objections of principle to the Australian definition. The ad hoc working group's proposal applied to all countries; by stating that a carrier under the Convention was a person who was a carrier by virtue of an international convention or relevant national law, it encompassed any country irrespective of whether it was a party to a convention. The Australian definition contained the rather harsh requirement that the national law had to correspond to an international convention.

(Mr. Lebedev, USSR)

38. The new Convention would be applied most widely in relation to the carriage of goods by sea where operations were carried out under the Hague Rules, to which only about 50 States were parties. In the other States, there were domestic laws which might differ from the Hague Rules in some respects. Consequently, there was always the danger of a dispute in which it would be asserted that the domestic law of a State which was not a party to the Hague Rules was not in accordance with those Rules. A person who was considered a carrier under his national law might not be viewed as a carrier for the purposes of the new Convention.

39. His delegation considered that if the Committee decided to approve a definition of the term "carrier", the text proposed by the ad hoc working group would be preferable to that of the Australian proposal, which would necessitate the inclusion in the Convention of provisions to enable States to ensure recognition of their national laws in which the term "carrier" was defined. His delegation believed that the Japanese proposal to replace the word "covering" in the working group's proposal by the word "governing" was rational.

40. On the question of article 15, the rules of law in operation in all countries provided in principle for international conventions to be given priority over domestic legislation. The existing text of article 15 raised some doubts in that it could be regarded as providing for the possibility that national legislation might have priority over the Convention. He thought the Committee should reflect on the matter and approve a text that would avoid such implications.

41. Mr. SCHROCK (Germany) said that, if article 15 was retained, he would be prepared to accept the Austrian suggestion to insert in it the words "and corresponding with" in order to meet the concern expressed in the Committee. If the Australian definition of the term "carrier" was not accepted, the Committee might consider approving the definition proposed by the ad hoc working group. He fully agreed that the word "covering" should be replaced by the word "governing".

42. With regard to the word "relevant", the Committee might decide whether the part of the sentence in which it appeared should be made more substantial through the use of the words "and corresponding with" or whether the vague language represented by the ad hoc working group's text was preferable.

43. Mr. MESCHERYAK (Ukrainian Soviet Socialist Republic) said that the purpose of article 15 was to correlate the rules in the draft Convention with those of other international carriage conventions and regulate the manner in which they were transformed into national legislation. He did not think it necessary for the Convention to go into great detail on that subject and believed that it might be best to delete article 15 from the draft.

44. Mr. SMITH (Australia) reminded the Committee of his delegation's proposal for the redrafting of article 15 (A/CONF.152/C.1/L.57). Australia could accept the Japanese suggestion that the word "governing" should replace the word "covering" in its proposed definition of the term "carrier" (A/CONF.152/C.1/L.56/Rev.1). The representative of the Soviet Union had objected that the use of the expression "and corresponding with" in the Australian definition would imply that the State whose national law was invoked for the purposes of the Convention would have had to adhere to the international instrument which the definition mentioned. That was not Australia's interpretation: the phrase would merely imply that the State concerned had chosen to incorporate the international instrument into its national law, despite the fact that it had no treaty obligation to do so. The correspondence to which the Australian definition referred was one of content, not of source of obligations.

(Mr. Smith, Australia)

45. In reply to the point made by the United States representative that the Australian provision for non-carrying intermediaries would prejudice the application of the "Himalaya clause" in common law jurisdictions, he said that it was certainly not his delegation's intent to interfere with judicial decisions taken in any other State's jurisdiction. Such decisions would be within the realm of national law, whereas the Conference was seeking to develop uniform rules, and the question at issue was to what extent national law was relevant for that purpose. In fact, because of the way articles 1 and 15 were drafted at present, national laws could still have an impact on how the Convention was interpreted in specific jurisdictions. It was that point which had been of concern to his delegation.

46. He had been glad to hear from the representative of Japan that its delegation interpreted the text of article 1 (a), as amended by the Committee, to include stevedores even if they were operating under the benefit of a "Himalaya" or similar bill-of-lading clause. In fact, if that was the understanding of the Committee as a whole, his delegation would be happy to withdraw the second part of its proposal in document A/CONF.152/C.1/L.56/Rev.1. The intent of that proposal had simply been to remove any possible ambiguity about the construction to be placed on the Convention in that respect by States with different systems of jurisprudence. If the Committee accepted the Australian definition in principle, he would be willing to let the Drafting Committee find more appropriate wording for the phrase "corresponding with".

47. The CHAIRMAN suggested that in the first instance the Committee should vote on the principle whether a definition of the term "carrier" should be included in article 1.

48. The Committee decided by 17 votes to 8, with 6 abstentions, that the draft Convention should not include a definition of the term "carrier".

49. Mr. BONELL (Italy) said he wished to place on record the strong desire of his delegation that, in interpreting the notion of "carrier" for the purposes of the Convention, an autonomous and, if possible, internationally uniform approach should be followed.

50. The CHAIRMAN invited the Committee to consider the part of the Australian proposal in document A/CONF.152/C.1/L.56/Rev.1 which dealt with non-carrying intermediaries.

51. Mr. SMITH (Australia) explained to the Committee that the purpose of that part of its proposal was that stevedores should be covered by the Convention regardless of whether they were operating under the benefit of a bill-of-lading clause.

52. Mr. LARSEN (United States of America) said he would appreciate some further clarification. He understood the Australian representative to have said that the proposal did not intend to deny the applicability of the "Himalaya clause" principle in jurisdictions in which it was established.

53. The CHAIRMAN said that as he understood it, Australia's intent was to make it clear that the Convention would apply to stevedores in all circumstances, whether or not they were operating under the benefit of a "Himalaya" or similar clause which would otherwise allow them to benefit from the limitations of liability applicable to carriers.

54. Mr. LARSEN (United States of America) said that his delegation took the view that the Convention should safeguard the operation of the "Himalaya clause". The stevedore needed to have a clear idea as to whether or not he would benefit from the clause. If he did, he would not necessarily be covered by the Convention, but in all other circumstances he would. That was the interpretation which the United States placed on the definition of the term "operator".

55. Mr. ILLESCAS (Spain) said his delegation was concerned that, since the Committee had decided not to include a definition of the term "carrier" in article 1, the second sentence of subparagraph (a) of that article, as amended by the Committee, would not have the same meaning as before. He suggested that the Committee should revert to the wording of subparagraph (a) set out in document A/CONF.152/5.

56. Mr. LARSEN (United States of America) supported that suggestion.

57. Mr. RUSTAND (Sweden) said that he too supported the suggestion. The ad hoc working group that had had the task of formulating a definition of the term "carrier" could always, as a last resort, have fallen back on the wording of the second sentence of article 1 (a) that would have resulted from acceptance of the Japanese proposal (A/CONF.152/C.1/L.19).

58. Mr. SMITH (Australia) asked whether the Committee would have the opportunity to vote on the Japanese proposal, which had not been discussed at the time.

59. The CHAIRMAN said that it would mean reopening the debate on subparagraph (a) of article 1.

60. Mr. BONELL (Italy) suggested that the Committee should first decide whether to retain the text it had approved. If it rejected that text, it could then look at alternative formulations, including the Japanese proposal.

61. The CHAIRMAN invited the Committee, in accordance with rule 33 of the rules of procedure, to vote on the motion to reopen the debate on subparagraph (a) of article 1.

62. The motion was adopted by 16 votes to 6, with 10 abstentions.

63. The CHAIRMAN observed that the Committee had before it the text of article 1 (a) which it had approved, the Japanese proposal (A/CONF.152/C.1/L.19) and a proposal submitted by Belgium (A/CONF.152/C.1/L.61). For the present, however, it might wish to resume its discussion of article 15. It seemed to him that the Committee was of the opinion that the draft Convention should take precedence over national laws of any kind. Under article 15, only international conventions or national laws implementing them could limit the scope of the Convention. That being so, some difficulty arose in regard to the phrase "or derived from", which was subject to different interpretations. It had been proposed that the phrase should be deleted.

64. Mr. RUSTAND (Sweden) said his delegation could not approve its deletion. He understood that many representatives favoured it, possibly with the addition of the words "and corresponding with".

65. The CHAIRMAN did not think that such wording would clarify the position; rather, it would give the impression that States could model national laws on other international conventions which they had not ratified and that those laws could take precedence over the Convention under discussion.

(The Chairman)

66. He invited the Committee to vote on the suggestion to delete the phrase "or derived from" in article 15.

67. The suggestion was approved by 20 votes to 4, with 2 abstentions.

68. Mr. SMITH (Australia) said that, following that decision, his delegation would withdraw its proposal in document A/CONF.152/C.1/L.57.

The meeting rose at 12.40 p.m.